

## REMARKS

After entry of this Amendment and Response, claims 1–7, 9–24, 26–41, 43–55, 57–68, 70–74, and 76–78 will be pending. Claim 25 was previously cancelled; claims 8, 42, 56, 69, and 75 are now cancelled, and claims 1, 4, 9–12, 16–19, 22–24, 30, 39, 43, 50, 57–59, 66, 70–72, and 76–77 have been amended to clarify the scope of the claims.

More particularly, claim 1 has been amended to include the limitation recited in claim 8 and claim 8 has been cancelled. Claim 39 has been amended to include the limitation recited in claim 42 and claim 42 has been cancelled. Claim 50 has been amended to include the limitation of allowable claim 56 and claim 56 has been cancelled. Claim 66 has been amended to include the limitation recited in allowable claim 69 and claim 69 has been cancelled. Claims 70 and 71 have each been rewritten in independent form to include the limitations of the previously presented independent claim 66. Claim 72 has been amended to include the limitation recited in claim 75 and claim 75 has been cancelled. Support for the amendments may be found, for example, in the previously filed claims. No new matter has been added.

The Applicants note with appreciation that the Examiner has indicated that claims 56–59, 64–65, 69–71, and 77 would be allowable if rewritten in independent form. The limitation of claim 56 has been added to independent claim 50 and claim 56 was cancelled. Hence, claim 50, as well as claims 51–55, 57, and 59–65 that are dependent therefrom, are patentable. Claim 58 has been rewritten in independent form. The limitation of claim 69 has been added to independent claim 66 and claim 69 was cancelled. Hence, claim 66 and claims 67–68 dependent therefrom are patentable. Claims 70 and 71 have been rewritten in independent form. The limitation of claim 75 has been added to independent claim 72 and claim 75 was cancelled. Claim 72 is patentable for the reasons given below and, hence, claims 73–74 and 75–77 dependent therefrom are patentable.

Claim 38 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17, 20, and 21 of U.S. Patent No. 6,610,429. Applicants submit that this rejection is overcome by the enclosed Terminal Disclaimer.

Claims 1–7, 9–14, 16–17, 20, 22–24, 26–33, 35–37, 39–49, 66–67, 75–76, and 78 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9–24, and 83 of co-pending U.S. Application No. 10/848,831. However, the instant application and co-pending U.S. Application No. 10/848,831 were both subject to an obligation of assignment to Z Corporation at the time the invention in the instant application was made. Applicants submit that this rejection is overcome by the enclosed Statement Regarding Common Ownership of Application and Cited Reference.

#### Rejections Under 35 U.S.C. § 112

Claims 8–9, 11–16, 18, 22, and 24 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as the invention. The rejection of claim 8 is moot in view of the cancellation of that claim.

The Examiner objected to claims 12, 17, 19, and 23 for reciting that the filler “is” a specific material, while claim 1 recites that the “filler comprises plaster.” Claims 12, 17, 19, and 23 have been amended to clarify that the filler “further comprises” a specific material, rather than “is” a specific material.

Regarding claims 9, 11, 16, 18, and 22, the Examiner has objected to the recitation of “the adhesive material” for lack of antecedent basis. Applicants have amended claims 9, 11, 16, 18, and 22 to recite “the particulate adhesive material.”

#### Rejection of claims under 35 U.S.C. § 102

Claims 1–5, 7, 9–14, 18–19, 21–24, 26–30, 34, 35, 37, 39–41, 44–46, 66, and 78 are rejected under 35 U.S.C. § 102(b) as being anticipated by the patent GB 2 048 235 to BPB Industries Limited (the “BPB patent”). The BPB patent appears to disclose a cement that includes 35–95% gypsum plaster having a particle size less than 150  $\mu\text{m}$  and 1–10% polymeric binder, e.g., polyvinyl alcohol. The cement appears to be suitable for mixing with water. *See*, e.g., claims 1, 2, and 3.

The BPB patent does not teach or suggest a particulate material including a filler comprising plaster and a polymer, as recited in amended independent claim 1. Also, the BPB patent does not teach or suggest a particulate material comprising a printing aid, as recited in amended claim 39. In addition, the BPB patent does not teach or suggest a kit including an aqueous fluid comprising an accelerator, as recited in amended independent claim 66.

Applicants submit that, for at least these reasons, independent claims 1, 39, and 66 and claims dependent therefrom are patentable over the cited art.

Claims 1–4, 6–7, 9, 11–14, 18–19, 21–24, 26–30, 35, 37, 50–55, 60–63, 66–68, 72–74, and 78 are rejected as being anticipated by U.S. Patent No. 3,297,601 to Maynard et al. (“Maynard”). Maynard appears to disclose a dry joint compound for use in finishing joints between wallboards. This compound may include calcium sulfate hemihydrate and 4–10% finely divided polyvinyl acetate. See, e.g., claim 7.

Maynard does not teach or suggest a particulate material including a filler comprising plaster and a polymer, as recited in amended independent claim 1. Maynard also does not teach or suggest a particulate material including plaster, a first particulate adhesive consisting essentially of partially hydrolyzed polyvinyl alcohol, a second particulate adhesive, and an accelerator, as recited in amended independent claim 50. Further, Maynard does not teach or suggest a kit including an aqueous fluid comprising an accelerator, as recited in amended independent claim 66. Finally, Maynard does not teach or suggest a particulate material including plaster, a particulate adhesive, an accelerator, a filler, and an oil, as recited in amended independent claim 72.

Applicants submit that, for at least these reasons, independent claims 1, 50, 66, and 72 and claims dependent therefrom are patentable over the cited art.

**CONCLUSION**

In light of the foregoing, Applicants respectfully submit that all claims are now in condition for allowance.

If the Examiner believes that a telephone conversation with Applicants' attorney would expedite allowance of this application, the Examiner is cordially invited to call the undersigned attorney at (617) 570-1806.

A check for \$730 for the extra claim fee and for the Terminal Disclaimer fee is enclosed. Applicants believe that no additional fees are required. However, if any other fee is due, please charge any such fee occasioned by this paper to our Deposit Account No. 07-1700.

Respectfully submitted,

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